

S. 3961 - PIPES Act of 2006

Section by Section

Sec. 1. Short title; table of contents.

This section contains title, “Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006,” and table of contents.

Sec. 2. Amendment of title 49.

This section states that, except otherwise provided, all amendments in this Act are to be made to title 49, United States Code.

Sec. 3. Low-stress pipelines.

The bill requires the Secretary to issue regulations subjecting all low-stress hazardous liquid transmission pipelines to the same standards and regulations as other hazardous liquid transmissions pipelines within one year of enactment. The bill provides exceptions to such regulation for those pipelines already covered under U.S. Coast Guard safety regulations and interplant pipelines less than 1 mile in length that do not cross navigable waters until the new regulations required by this section take effect, after which the Secretary may maintain or remove the exemption. Pipelines operating under the exemption are required to comply with regulations governing incident reporting and mapping.

Sec. 4. Pipeline safety and damage prevention.

The bill includes new civil enforcement authority for excavators and pipeline operators responsible for third-party damage incidents and provides grants to States that have damage prevention programs in place. The Federal matching requirements for state grants provided under this section is 50% and States seeking grants will be required to maintain a level of state expenditure related to pipeline safety equal to the average expenditure over the prior three years.

Sec. 5. Damage prevention technology development.

The bill authorizes the Secretary to make grants to any organization or entity to stimulate the development of technologies that will facilitate the prevention of pipeline damage caused by excavation activities. The bill places emphasis on wireless and global positioning technologies in connection with notification systems and underground facility locating and marking services.

Sec. 6. Safety orders.

The bill allows the Secretary, only after notice and opportunity for a hearing, to order the operator of a facility to take necessary corrective actions to remedy any facility that has any condition that poses a risk to public safety, property, or the environment. The Secretary may waive the requirement of notice and hearing in the event of an emergency.

Sec. 7. Integrity program enforcement.

This section contains a technical correction to clarify that the Secretary may use the full spectrum of enforcement tools if the Secretary determines that a risk analysis or integrity management program is inadequate.

Sec. 8. Technical assistance grants.

This section requires the Secretary to establish competitive procedures for awarding grants for technical assistance to local communities and groups of individuals relating to the safety of pipelines facilities in local communities. The bill reauthorizes appropriations for these grants through 2010 and requires that at least the first three grants under this section be demonstration grants not to exceed \$25,000.

Sec. 9. Enforcement transparency.

This section requires the Secretary begin to electronically post monthly summaries of its pipeline enforcement actions within one year of enactment.

Sec. 10. Direct line sales.

This section defines ‘gas pipeline facility’ to include direct sales lateral pipelines, thereby regulating such pipelines at the federal level. Currently, the statutory definition of interstate gas pipeline facility does not include direct sales laterals, which has led to regulatory uncertainty due to inconsistencies at the State level.

Sec. 11. Gas distribution integrity management program rulemaking deadline.

This section requires the Secretary to prescribe minimum standards for integrity management programs for distribution pipelines within one year of enactment. The bill requires minimum standards to include criteria for requiring operators of natural gas distribution systems to install excess flow valves on single-family residential service lines that are installed after the date of enactment and to report to the Secretary annually on the number of excess flow valves installed under this requirement.

Sec. 12. Standards to implement NTSB recommendations.

The section requires the Secretary to issue standards that implement the following NTSB recommendations: (1) Implementation of the American Petroleum Institute’s Recommended Practice 165 for the use of graphics on the supervisory control and data acquisition screens. (2) Implementation of a standard for pipeline companies to review and audit alarms on monitoring equipment. (3) Implementation of standards for pipeline controller training that include simulator or non-computerized simulations for controller recognition of abnormal pipeline operating conditions such as leak events.

Sec. 13. Coordination in the construction and expansion of hazardous liquid pipelines.

Currently, the Secretary appoints an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity. This section expands the ombudsman’s duties to include pipeline construction activity and hazardous liquid pipeline construction projects. This section also allows the Secretary to coordinate

the environmental reviews and permitting processes of Federal agencies and State and local agencies with the responsibility of issuing permits or authorizing construction projects, if the Secretary determines that coordinating the permitting processes to expedite the completion of the project would be in the national interest and consistent with protection of the environment.

Sec. 14. Cost recovery for design reviews.

Due to the recent surge in LNG facility applications received by FERC, there has been a substantial increase in DOT's performance of design reviews. Currently, DOT does not recover these costs directly from the applicant. The bill authorizes the Secretary to directly recover the costs from the applicant and deposit those funds into a pipeline safety fund.

Sec. 15. Human factors risk management rulemaking.

This section requires the Secretary to issue regulations requiring operators of gas and hazardous liquid pipelines to evaluate and take measures to reduce risks associated with human factors, including fatigue, for pipeline controllers and other employees. Under this section, pipeline operators are required to develop and implement pipeline controller work schedules and limits on controller hours of service to reduce the likelihood of accidents attributable to human factors.

Sec. 16. Emergency preparedness.

Currently, DOT must provide a 30-day notice and comment period prior to issuing any waiver of the pipeline safety standards. This section creates a new emergency waiver process that allows the Secretary to waive compliance with federal regulations, without a notice and comment period, if the Secretary determines that such a waiver is in the public interest, not inconsistent with safety, and necessary to address a major disaster or emergency. The section also refines the non-emergency waivers process for federal regulations, to ensure that, after a notice and comment period, waivers granted are in the public interest and will provide a level of safety that is equal to or greater than the level of safety that would be obtained in the absence of the waiver.

Sec. 17. Public education and awareness.

This section requires the Secretary to make a grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.

Sec. 18. Safety technology and corrosion research and development.

In order to develop and improve national consensus standards, this section requires the Secretary to carry out a pipeline corrosion research program to improve methods, best practices, and technologies for identifying, detecting, preventing, and managing internal and external corrosion and other safety risks.

Sec. 19. Cost recovery for extraordinary events.

This section allows the Secretary to establish procedures to recover the Secretary's extraordinary costs incurred in investigating major pipeline safety incidents from the

person or persons responsible for the incident. All sums collected are required to be deposited into the pipeline safety fund.

Sec. 20. Senior executive signature of integrity management program performance reports.

This section requires the Secretary to establish procedures requiring certification of annual and semi-annual pipeline integrity management program performance reports by a senior executive officer of the company operating the pipeline. The bill requires a signed statement certifying that the signing officer reviewed the report and to the best of such officer's knowledge, the report is true and complete.

Sec. 21. Leak detection technology study.

This section requires the Secretary to submit a report to Congress on the effectiveness of leak detection systems currently utilized by operators of hazardous liquid pipelines.

Sec. 22. Study of pipeline regulatory adequacy.

Under this section, the Secretary may conduct analyses of the domestic transport of petroleum products by pipeline. The analyses should identify areas of the United States where unplanned loss of individual pipelines may cause shortages of petroleum products or price disruptions. Upon identifying such areas, the Secretary is required to determine if the current level of safety regulation is sufficient to minimize the potential for unplanned losses.

Sec. 23. Pipeline security inspections and enforcement.

This section requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation, to establish a program for reviewing pipeline operator adoption of DOT pipeline security recommendations and inspecting the 100 most critical pipeline facilities for security plan compliance. Within one year of enactment, the DOT and DHS Secretaries are required to develop and transmit to pipeline operators any security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities and may develop further regulations, as needed.

Sec. 24. Pipeline security and incident recovery plan.

This section requires the Secretary of Homeland Security to consult with the Secretary of Transportation and PHMSA in developing a Pipeline Security and Incident Recovery Protocols Plan based on the MOU Annex executed between the Departments on August 9, 2006. Within one year of enactment, the Secretary is required to submit to Congress a report containing the plan along with an estimate of the private and public sector costs of implementation.

Sec. 25. Technical assistance program.

This section allows the Secretary to award grants, through a competitive process, to Universities with expertise in pipeline safety and security research to establish jointly a collaborative program to conduct pipeline safety and security technical assistance.

Sec. 26. Authorization of appropriations.

This section contains authorizations for appropriations and user fees for fiscal years 2007 through 2010. The authorization levels provide for increased funding for research and development and an increase in federal pipeline inspection and enforcement personnel.

The Secretary is required to ensure that the number of positions for pipeline inspection and enforcement personnel at PHMSA does not fall below these minimums:

FY 2007 – 100

FY 2008 – 111

FY 2009 – 123

FY 2010 – 135